

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

**TONIE SMITH, INDIVIDUALLY
AND ON BEHALF OF THE WRONGFUL
DEATH BENEFICIARIES OF GARY SMITH,
DECEASED**

PLAINTIFF

VERSUS

CIVIL ACTION NO. 2:04CV55-P-B

**PACCAR INC. D/B/A PETERBILT MOTORS
COMPANY; PETERBILT OF MEMPHIS, INC.;
DANA CORPORATION; CATERPILLAR, INC.;
AND JOHN DOES 1-5**

DEFENDANTS

AND

FEDERATED MUTUAL INSURANCE COMPANY

INTERVENOR

ORDER

This cause is before the Court, sua sponte for consideration of entry of a stay order. The Court, being fully advised in the premises, finds as follows, to-wit:

Defendant Dana Corporation filed a voluntary Bankruptcy Petition pursuant to Chapter 11 of the United States Bankruptcy Code on March 3, 2006. The defendant is, accordingly, entitled to an automatic stay pursuant to Chapter 11 of the United States Bankruptcy Code. Plaintiff's counsel has represented to the Court that he has filed a motion for relief from the automatic stay; however, the hearing before the bankruptcy court will not take place until August 11, 2006. This case is set for trial shortly thereafter on September 25, 2006. In view of the Court's June 7, 2006 Order suspending the briefing schedule on the pending dispositive motion due to defendant's bankruptcy

proceeding, the Court finds that the most expedient measure is to enter a stay of this case until further order of the Court pending a ruling on plaintiff's motion for relief from stay.

IT IS, THEREFORE, ORDERED AND ADJUDGED that this cause should be, and hereby is, STAYED and the September 25, 2006 trial of this matter is CONTINUED until further Order of the Court. IT IS FURTHER ORDERED that the parties are to notify this Court within ten (10) days of the entry of any Order by the Bankruptcy Court which lifts the automatic stay applicable to Dana Corporation.

SO ORDERED, this the 14th day of July, 2006.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE